IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

CIVIL APPLICATION NO. 1893 OF 2003
IN
FIRST APPEAL (ST) NO. 17422 OF 2000

Office Notes, Office Memoranda of of Coram, appearances, Court's orders and Registrar's orders : Court's or Judge's orders

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Shri M.V. Holmagi for the applicant.

Shri M.D. Patil for the respondent BMC.

CORAM: P.V. KAKADE, J.

DATED: 10TH SEPT., 2004

P.C.:

1. Heard both sides.

2. The applicant has filed this application for modification of the earlier order passed in F.A. (St.) No. 17422 of 2000 preferred against the judgment and decree dated 4.5.2000.

This Court has passed the order as follows:-

"**Coram: R.J. Kochar, J.**

Dated: 30.4.2003.

P.C.:

The learned advocate for the appellant prays for withdrawal of the appeal in view of the order dated 14.12.2000 passed by the Dy. Municipal Commissioner, zone IV. Prayer is

granted. The appeal is dismissed as withdrawn."

The learned counsel for the applicant now submits that the concerned authorities are not ready to abide with the order of the Court inspite of the fact that the Stall Nos. 1 & 2 situated at Tulsi Bhavan, M.G. Road, Ghatkopar (West) fall in approved plan bearing No.CE/9863/BPIII/Misc., dated 15.3.1977.

After perusing this Court order, it is quite clear that the said order requires modification. The learned counsel for the respondent Corporation has also no objection for the same in view of the order passed by the Dy. Municipal Commissioner (Zone-VI).

Hence, the application is partly allowed. Modified order is hereby passed as follows:-

"The learned advocate for the appellant prays for withdrawal of the appeal in view of the order dated 14.12.2000 passed by the Dy. Municipal Commissioner (Zone VI), to the effect that stall Nos. 1 & 2 situated at

Tulsi Bhavan, M.G. Road, Ghatkopar (West) are reflected in approved plan bearing No.CE/9863/BPIII/Misc., dated 15.3.1977 pursuant to notice under Sec.351 of the B.M.C. Act. In view of this position, the appeal is allowed to be withdrawn and stands dismissed as withdrawn.

Application stands disposed of accordingly.

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